

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF JANUARY 28, 2003

A meeting of the New York State Racing and Wagering Board was held on Tuesday, January 28, 2002 at 1:30 p.m. at the Racing & Wagering Board's Albany Office located at 1 Watervliet Avenue Extension, Albany, New York.

The meeting was called to order at 1:30 p.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Ed Martin, Executive Director

Sheila Osterhout, Secretary to the Board

Robert Feuerstein, General Counsel

Tom Casaregola, Director of Audits & Investigations

Joe Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Jennifer Whalen, NYSR&WB

Russell Baller, NYSR&WB

Rick Goodell, NYSR&WB

Dr. W. J. Hill, The Jockey Club

Paul D'Onofrio, Monticello Raceway

Pete O'Connell, Western OTB

Ed Draves, Bolton-St. Johns

Charles Coppola, Coppola, Ryan, McHugh

Bill Heller, Thoroughbred Times

Shirin Parsavand, The Daily Gazette

Bill Crowell, Hinman Straub

OPEN COMMENT PERIOD: None.

A. Approve the minutes of the Board meeting held on December 23, 2002.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on January 2, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operating enabling the imports of the simulcasts from the harness racetracks known as Balmoral Park and Maywood Park in Illinois and The Meadows, a harness racetrack in Pennsylvania during the calendar year 2003.

Also approved is the agreement with the Maryland Jockey Club for Laurel Park through its Winter meeting that concludes on March 30, 2003. This approval coincides with the date approved as expressed by the State of Maryland Department of Labor, Licensing and Regulation under which the Maryland Racing Commission operates. To continue during 2003 with the Pimlico Race Course and Laurel Park simulcast signals, new letters of permission from the Maryland Commission and the representative horsemen's organization (The Maryland Thoroughbred Horsemen's Association) must be filed with the Board.

* For entry into the minutes, on January 2, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operating enabling the imports of simulcasts from The Meadowlands in New Jersey during the calendar year 2003.

* For entry into the minutes, on January 2, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operating enabling the imports of simulcasts from Northville Downs in Michigan and from Gulfstream Park in Florida during the year 2003 race meeting at each track.

* For entry into the minutes, on January 3, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Freehold Raceway in New Jersey during the calendar year 2003.

This simulcast signal may be imported whenever in accordance with the Racing Law.

* For entry into the minutes, on January 10, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Tampa Bay Downs in Florida. This approval is valid immediately and through the end of the 2003 Tampa Downs race meeting scheduled to conclude on May 3rd.

Also approved is the exportation of Monticello Raceway's simulcast to The Red Mile in Lexington, Kentucky.

* For entry into the minutes, on January 21, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Oaklawn Park in Arkansas.

This approval is valid through the end of the Oaklawn Park 2003 race meeting scheduled to conclude on April 12th.

Also approved is the year 2003 agreement with the in-state harness racetrack known as Buffalo Raceway to carry the year 2003 Buffalo Raceway simulcasts at Monticello Raceway.

2. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on January 2, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the export of Saratoga Harness simulcasts to Buffalo Raceway in Hamburg, New York during the year 2003 Saratoga Harness racing season.

* For entry into the minutes, on January 3, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Santa Anita through April 20th and from Turfway Park through April 3, 2003. Although the agreement with Turfway Park is for all of the year 2003, the federally required letter of permission for this simulcast to take place from the Kentucky Commission and from the Kentucky Division of the Horsemen's Benevolent and Protective Association (HBPA) specify through the first meet (ending April 3rd) only.

Additionally, the Board approved an amendment to the Saratoga Harness simulcast plan of operation enabling the Saratoga Harness simulcast to be sent to Thistledown (including its OTB-Mifflin Meadows) and Raceway Park in Ohio. Also approved is the export to The Meadows in Pennsylvania and its off-track betting locations as listed within the submitted agreement.

* For entry into the minutes, on January 3, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the export of simulcasts to Pocono Downs, a harness racetrack in Wilkes Barre, Pennsylvania and its five associated Pennsylvania ITW sites of The Downs at Carbondale, Erie, Hazleton, Lehigh and East Stroudsburg.

Additionally, the Board approved an amendment to the Saratoga Harness simulcast plan of operation enabling the Saratoga Harness simulcast to be sent to US Off-Track and Euro Off-Track with the provision that residents of New York State not be able to wager on these simulcasts with either out-of-state entity as outlined in the contract.

The Board further acknowledges receipt of the agreement providing for the export of the Saratoga Harness signal to The Red Mile, a harness facility in Kentucky.

* For entry into the minutes, on January 3, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the export of simulcasts to the in-state harness tracks of Vernon Downs, Yonkers Raceway and Monticello Raceway.

Additionally approved are the agreements allowing for export to Plainridge Racecourse and Suffolk Downs in Massachusetts and to the New Jersey Sports and Exhibition Authority d/b/a The Meadowlands and Monmouth Park in New Jersey. All approvals are in conjunction with the Board's policy of having licensees file all import simulcast contracts and all export agreements to any in-state or contiguous state entity. These simulcast signals may be imported whenever in accordance with the Racing Law.

The Board further acknowledges receipt of the agreements providing for the export of the Saratoga Harness signal to entities located in states other than contiguous states including to Hazel Park in Michigan, Hinsdale Greyhound Park & OTB in New Hampshire, Lewiston Raceway in Maine including its secondary sites: Winner's OTB in Maine, Dover Downs and Harrington Raceway in Delaware. Also acknowledged are the contracts filed with Ocean Downs in Maryland and Scarborough Downs in Maine.

* For entry into the minutes, on January 10, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetracks known as Gulfstream Park in Florida, The Maryland Jockey Club racetracks of Laurel and Pimlico, Golden Gate Fields in California, The New Jersey Sports & Exhibition Authority racetracks of The Meadowlands and Monmouth Park and The Meadows in Pennsylvania.

The import of simulcasts from Golden Gate Fields is valid through March 30th only, as is stated in the federally required California Horse Racing Board letter. To continue with the Fall Golden Gate Fields simulcasts, new California Commission and Horsemen letters must be filed with the Board. The Maryland Jockey Club letters of simulcast permission extend through March 30th (Commission) and June 30th (Horsemen). To continue past March 30th on this contract, new federally required letters of permission must be filed with the Board.

All simulcast signals may be imported whenever in accordance with the Racing Law.

* For entry into the minutes, on January 13, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcast signals from the thoroughbred racetrack known as Turf Paradise in Arizona. Also approved is the contract with the in-state thoroughbred racetrack of Finger Lakes to receive the Saratoga Harness simulcast.

The Board also acknowledges the receipt of the agreement with Northville Downs in Michigan to again receive the Saratoga Harness exported simulcast signal in 2003.

* For entry into the minutes, on January 22, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts emanating from Buffalo Raceway in New York, Freehold Raceway in New Jersey, Lebanon Raceway in Ohio, Oaklawn Park in Arkansas and Rosecroft Raceway in Maryland during the year 2003.

These imported simulcast signals may be utilized whenever in accordance with the Racing Law.

3. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on January 2, 2003, approval was granted for the request by Vernon Downs to amend their simulcast plan of operation allowing the import of simulcast signals from Santa Anita Racecourse in California beginning December 26, 2002 and continuing into the year 2003, from the Maryland Jockey Club racetrack of Laurel Racecourse through March 31st and from Tampa Bay Downs in Florida. Additionally approved are the agreements with the Meadows in Pennsylvania, Northfield Park in Ohio, Pompano Park in Florida and Woodbine and Mohawk Harness in Canada. All simulcast signals may be utilized whenever permitted under the Racing Law.

The above approval of the Maryland Jockey Club racetracks of Pimlico and Laurel have letters of permission from their Commission valid through March 31, 2003 only. Should Vernon Downs desire to import either of these simulcast signals after March 31st, a new Maryland Commission permission letter must be filed with the Board.

* For entry into the minutes, on January 6, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of the simulcast signals from Monticello Raceway, an in-state harness track; Flamboro Downs in Ontario; Golden Gate Fields, a thoroughbred racetrack in California and from The Meadowlands harness meeting in New Jersey for the year 2003.

* For entry into the minutes, on January 10, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of the year 2003 simulcasts from Northville Downs in Michigan.

This harness simulcast can be utilized whenever permitted under the Racing Law.

* For entry into the minutes, on January 24, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from Oaklawn Park in Arkansas.

This approval is valid through the end of the Oaklawn Park 2003 race meeting scheduled to conclude on April 12th.

* For entry into the minutes, on January 24, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from Philadelphia Park in Pennsylvania.

This approval is valid through the end of the Philadelphia Park 2003 race meeting scheduled to conclude on December 31st.

4. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on January 2, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Northville Downs in Michigan during the year 2003 race meeting at this harness track.

* For entry into the minutes, on January 7, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the importation of simulcast signals from Indiana Downs in Indiana and from Saratoga Harness.

Also approved are the exports of the Yonkers Raceway simulcast to areas that are located in-state, in a contiguous state or are new. Included as approved are the agreements with the in-state harness racetracks known as Batavia Downs, Buffalo Raceway, Monticello Raceway and Saratoga Harness. Contiguous state venues approved are Wonderland Greyhound in Massachusetts, MEC's The Meadows and its sister companies. These venues include simulcast sites at The Meadows-New Castle, Coraopolis, Harmar Township, West Mifflin, Xpress Bet PA, Youbet of California and Great Lakes Downs in Michigan.

Acknowledged as received, are those contracts for the export of the Yonkers Raceway simulcasts to Lewiston Raceway in Maine, Prairie Meadows in Iowa, Rockingham Park in New Hampshire, Northfield Park in Ohio, Racing Services in North Dakota, Rosecroft Raceway in Maryland and Thistledown in Ohio.

* For entry into the minutes, on January 7, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the export of its simulcasts to areas that are located in-state, in a contiguous state or are new. Approved are Plainridge Raceway and Suffolk Downs in Massachusetts, including the associated facilities listed within the Yonkers-Suffolk Downs contract. Also approved is an agreement with The Meadowlands in New Jersey.

Acknowledged as received are the contracts for the export of the Yonkers Raceway simulcasts that are not a "new" customer, located within New York State or in a contiguous state. These are with Raceway Park, River Downs, Lebanon Raceway and Scioto Downs in Ohio, Hinsdale Greyhound Park in New Hampshire, Ocean Downs in Maryland, Scarborough Downs in Maine, Sunland Park in New Mexico and Pompano Park in Florida.

* For entry into the minutes, on January 10, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the export of its simulcast signal to Autotote Enterprises, Inc. the operator of the off-track betting system in the State of Connecticut, throughout the entire year 2003.

The Board also acknowledges the receipt of export agreements with Hoosier Park in Indiana and the Las Vegas Dissemination in Nevada under the Board's policy of both entities being previous customers (and not new customers) and not located in-state or in a contiguous state.

* For entry into the minutes, on January 22, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of harness simulcast signals from Rosecroft Raceway in Maryland during their upcoming 2003 racing season.

Also approved is the exportation of the Yonkers Raceway simulcasts to areas that are located in a contiguous state. Included as approved are the agreements with Philadelphia Park and Penn National in the contiguous state of Pennsylvania.

Acknowledged as received are the continuing contracts to export the Yonkers Raceway simulcast to Balmoral Park in Illinois and to Northville Downs in Michigan.

The requested approval resulting from the filing with the Board of the contracts to import the simulcast signals from the Illinois racetracks known as Maywood and Balmoral Park is "on hold" pending resolution of a horsemen's dispute within the Illinois harness racing

community. Because of this dispute, there is no federally required letter of permission from the representative Illinois Harness Horsemen's Association authorizing these Illinois harness simulcasts crossing state boundaries to New York or any other state.

5. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on January 2, 2003, approval was granted for the request by Nassau OTB to amend its simulcast plan of operation enabling the import of simulcasts from Suffolk Downs in Massachusetts during all of their year 2003 meetings and from Turfway Park in Kentucky (through April 3rd) whenever permitted by the Racing Law.

The federally required letters from the Kentucky Racing Commission and from the Kentucky division of the Horsemen's Benevolent and Protective Association, Inc. (H.B.P.A.), both specify approval for the "Winter-Spring" meet only. To continue on during 2003 with these imported simulcasts from Turfway Park past April 3rd, new approval letters must be filed with the Board.

* For entry into the minutes, on January 10, 2003, approval was granted for the request by Nassau Regional OTB, dated December 24, 2002, to amend its simulcast plan of operation enabling the import of simulcasts from the year 2003 thoroughbred race meetings conducted at Philadelphia Park in Bensalem, Pennsylvania and the 2003 thoroughbred race meeting conducted by the Oaklawn Jockey Club at Oaklawn Park in Arkansas.

This approval extends to Suffolk Regional OTB as well. The Philadelphia Park and Oaklawn Park simulcasts may be imported whenever permitted under the Racing Law.

6. NEW YORK CITY OTB REQUEST TO OFFER PROMOTION □ PHONE WAGERING

For entry into the minutes, on January 2, 2003, approval was granted for the request by New York City OTB to amend its plan of operation enabling the following rewards to current account holders that utilize the ATAB system:

- Utilizing the tracking of customer activity with their established telephone accounts from January 2nd through February 2, 2003 on Thursday, Friday and Saturday evenings from 11:00 p.m. through the remainder of that betting day. Each customer that wagers a total of \$200.00 or more using the ATAB system during the specified days/hours of this promotion would receive a one-time credit of twenty dollars (\$20.00) to their account.
- Utilizing the tracking of customer activity with their established telephone accounts from January 2nd through February 2, 2003 on Thursday, Friday and Saturday evenings from 11:00 p.m. through the remainder of that betting day. Each customer that wagers at least two dollars (\$2.00) using the ATAB system during the specified days/hours of this promotion (but does not qualify under scenario one above) would receive a two-dollar (\$2.00) credit to their telephone account. The limit to the number of credits able to be earned by the customer is two dollars (\$2.00) per promotion day and that account holder is also limited to earning a maximum of three credits (for a total of \$6.00) over the life of the promotion. Therefore, the account holder would have to use the ATAB system during the specified hours on or at least three separate specified days to receive the maximum credit to his (her) established account.

7. CAPITAL OTB REQUEST FOR AMENDMENT TO EXISTING CONTRACT WITH NYRA

For entry into the minutes, on January 3, 2003, approval was granted for the request by Capital District Regional Off-Track Betting Corporation for an amendment to an existing Memorandum of Understanding with the New York Racing Association (NYRA). This amendment extends the simulcast agreement for a two-year period, ending December 31, 2004.

8. BUFFALO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on January 10, 2003, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from Santa Anita Racecourse, a thoroughbred racetrack in California and from Gulfstream Park, a thoroughbred race track in Florida.

This approval is effective immediately. Both simulcasts may be utilized whenever in accordance with the Racing Law.

* For entry into the minutes, on January 13, 2003, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from the Maryland Jockey Club racetrack of Laurel Racecourse through March 31st.

Additionally approved are the agreements with Flamboro Downs in Ontario, Canada; the New Jersey Sports & Exhibition Authority racetracks of The Meadowlands and Monmouth Park in New Jersey and the Woodbine Entertainment Group racetracks of Woodbine Race Course and Mohawk Raceway in Ontario, Canada. All simulcast signals may be utilized whenever permitted under the Racing Law. Although five (5) seconds is allowed by contract, there is to be no cancellation of Woodbine wagers after the stop betting signal is given.

The above approval of the Maryland Jockey Club racetracks of Pimlico and Laurel have letters of permission from their Commission valid through March 31, 2003 only. Should Buffalo Raceway desire to import either of these simulcast signals after March 31st, a new Maryland Commission permission letter must be filed with the Board.

* For entry into the minutes, on January 21, 2003, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from Tampa Bay Downs, a thoroughbred racetrack in Florida.

This approval is effective immediately and may be utilized whenever in accordance with the Racing Law.

9. NYRA REQUEST TO SIMULCAST THROUGH STEVENSON & ASSOCIATES

For entry into the minutes, on January 10, 2003, approval was granted for the request by NYRA for the addition of an outlet for Clinton Phipps Racetrack located at St. Thomas in the U.S. Virgin Islands.

The wagering activity on NYRA races at this new site will be commingled through the Hollywood, Florida hub into NYRA on-track pools. Stevenson and Associates will be responsible for this contract and settlements.

This approval is effective immediately.

10. SARATOGA HARNESS REQUEST TO AMEND PLAN OF OPERATION

For entry into the minutes, on January 21, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling a third double wager on the final two races of any race card that has eleven or more races presented.

11. MONTICELLO RACEWAY REQUEST TO DISCONTINUE PICK 4

For entry into the minutes, on January 22, 2003, approval was granted for the request by Monticello Raceway to amend its plan of operation enabling the elimination of the pick-four wager on races six through nine.

This adjustment to the daily wagering schedule at Monticello Raceway may take place immediately.

12. NASSAU OTB REQUEST TO DESIGNATE RACES AS SPECIAL EVENTS

For entry into the minutes, on January 24, 2003, approval was granted for the request by Nassau OTB to designate two out-of-state thoroughbred events from Santa Anita Park in California as "special events". The following are approved as "special events":

- The Sunshine Millions Turf on Saturday, January 25th
- The Sunshine Millions Oaks on Saturday, January 25th

13. NYRA REQUEST TO DESIGNATE RACES AS SPECIAL EVENTS

For entry into the minutes, on January 24, 2003, approval was granted for the request by NYRA to designate two out-of-state thoroughbred stakes events from Laurel Park as well as three separate wagering pools prior to the year 2003 Kentucky Derby and the Kentucky Oaks future wager as "special events". The following events are approved:

- 2/13 2/16 Kentucky Derby Future Wager Pool 1 at Churchill Downs
- 2/15 Barbara Fritchie H. (II) at Laurel Park
- 2/17 General George H. (II) at Laurel Park
- 3/13 3/16 Kentucky Derby Wager Pool 2 at Churchill Downs
- 4/3 4/6 Kentucky Derby Wager Pool 3 at Churchill Downs
- 4/3 4/6 Kentucky Oaks Future Wager at Churchill Downs

These events are added to the yearly cumulative listing of allowable special events under Section 905-a of the Racing Law.

C. ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE BOARD

1. CAPITAL OTB REQUEST FOR PROMISSORY NOTE

For entry into the minutes, on December 24, 2002, the Board granted approval for the request by Capital District Regional Off-Track Betting Corporation, dated November 25, 2002, to execute a \$151,730 note with Trustco Bank pursuant to § 508 of the Racing, Pari-Mutuel Wagering and Breeding Law.

2. CAPITAL OTB REQUEST TO APPOINT NEW DIRECTOR □ CANON

For entry into the minutes, on January 6, 2003, the Board approved the appointment of Mr. George H. Canon to the Board of Directors of the Capital District Regional Off-Track Betting Corporation.

3. WESTERN OTB REQUEST FOR EMERGENCY RULE CHANGE (4113.5) □ BATAVIA DOWNS

For entry into the minutes, on January 7, 2003, the Board granted approval for the request by Western OTB to adopt an emergency amendment to Harness Rule 4113.5. The emergency rule would add Batavia Downs and Buffalo Raceway to the list of tracks specified in the current rule. Thus, paragraph (a) of subdivision 1 of the Rule 4113.5 would read:

1. The horse does not show a charged line of a current performance meeting the qualifying standards at the track for the class of race. Current performance shall be defined as a start within 30 days of the date of the race to which declared. A performance on or after September 1 of the preceding years, shall be considered current for a horse making its first start of the current year before June 1 at Vernon Downs, Saratoga Raceway, Monticello Raceway, Batavia Downs, Buffalo Raceway and Goshen Historic Track. Official workouts shall be acceptable as qualifying performances for this paragraph for horses with previous satisfactory races.

Horses put on the "stewards list" from their latest race must re-qualify before being eligible for pari-mutuel racing.

This is an adoption of an emergency rule. Western OTB will be notified when this emergency rule is effective. Permanent revision to this rule has been recommended on the staff level at the Board, but has yet to be adopted as a rulemaking change.

4. IN THE MATTER OF RONALD D. WITTENBERG

For entry into the minutes, on January 9, 2003, the Board approved the Summary Suspension of harness trainer/driver Ronald D. Wittenberg for testing positive for cocaine as the result of a drug test that was administered on December 21, 2002.

This suspension would remain in effect pending further disposition by the Board after a hearing.

D. ITEMS TO BE APPROVED, DENIED OR DEFERRED BY THE BOARD

1. IN THE MATTER OF EDWARD J. BABCOCK

The Board approved Hearing Officer Baller's recommendation that the decision of the State Steward at Finger Lakes Race Track to suspend Mr. Babcock's license for thirty (30) days and impose a \$250 fine for violation of the Board's equine drug Rules 9 E NYCRR Part 4043 & 4043.2(e) based upon detection of the drug methocarbamol in the post-race urine of the

horse REGAL SWORD, which competed in the fourth race on July 28, 2002 at Finger Lakes Race Track, be affirmed.

2. IN THE MATTER OF JAVIER CASTELLANO

The Board approved Hearing Officer Baller's recommendation that the decision of the State Steward at Saratoga Race Course, which imposed a ten-day suspension for careless riding, while riding the horse "QUEST" in the ninth race on August 4, 2002, in violation of Board Rule 4035.2 be affirmed. Additionally, the Board made an additional finding that Mr. Castellano was wholly responsible for the accident and demonstrated negligence by failing to take proper and timely corrective action.

3. IN THE MATTER OF KEVIN CUMMINGS

The Board approved Hearing Officer Baller's recommended finding that Kevin Cummings violated Board Rule 5402.11 on four occasions by having filed frivolous appeals during 2001 and 2002 without substance or merit, unreasonably, in bad faith, and for purposes of delay. The Board imposed a fine against Mr. Cummings in the amount of one thousand dollars.

4. IN THE MATTER OF DANIEL FELICIANO

The Board approved Hearing Officer Baller's recommendation that the decision of the State Steward at Finger Lakes Race Track, which imposed a ten-day suspension based upon interference while riding the horse "JACOB'S TRUST" in the seventh race on October 5, 2002, in violation of Board Rule 4035.2, be affirmed.

5. IN THE MATTER OF JEFFREY S. FINN

The Board approved Hearing Officer Baller's recommendation that the refusal of harness groom applicant Finn's license based upon a finding that his experience, character and general fitness are such that his participation in harness racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing, be affirmed based upon violation of Board Rule §4119.11 and the "Consent to Conditions for Reinstatement". This finding was based upon human substance abuse incidents.

6. IN THE MATTER OF DAVID HOSKING

The Board approved Hearing Officer Baller's recommendation that the decision of the Presiding Judge at Monticello Raceway, which suspended Mr. Hosking's license for one hundred-twenty (120) days as a result of the following post-race positive tests at Monticello Raceway: BAMBINO BREEZE on May 5, 2002 (aminocaproic acid), DRAGON FLYS on June 12, 2002 (levamisole), and CATEGORY FOUR on June 19, 2002 (levamisole) in violation of Board Rules 4120.2(f) and 4120.4, be affirmed.

7. IN THE MATTER OF RODNEY P. LaFRAMBOISE

The Board approved Hearing Officer Baller's recommendation that the decision of the Presiding Judge at Batavia Downs to suspend Mr. LaFramboise's driver's license for eight (8) days for striking the wheel of another horse during the tenth race on October 9, 2002 at Batavia Downs, in violation of Board Rule 4117.4(b), be affirmed.

8. IN THE MATTER OF ANTHONY MacRAE

The Board approved Hearing Officer Baller's recommendation that the decision of the judges at Monticello Raceway to disqualify the horse "JOHNNY RAE", for violation of the breaking rule (4117.10), and place the horse from first place to second place in the tenth race on August 18, 2002, be affirmed.

9. IN THE MATTER OF JAMES MURRAY

The Board approved Hearing Officer Baller's recommendation that the refusal of Harness general services applicant Murray's license based upon a finding that his experience, character and general fitness are such that his participation in harness racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing be affirmed. This finding is based upon criminal convictions and a false statement on his license application.

10. IN THE MATTER OF ANTHONY REGINA

The Board approved Hearing Officer Baller's recommendation that the decision of the Presiding Judge at Yonkers Raceway to suspend Mr. Regina's license for thirty (30) days based upon the detection of cocaine metabolites in post-race urine of the horse MASTERS MAIN MAN, which competed in the first race on April 6, 2002 at Yonkers Raceway in violation of Board Rules 4120.2 (f), and 4120.4, be affirmed.

11. IN THE MATTER OF JUAN SEREY

The Board deferred this matter for one month until the February 2003 meeting, per the request by respondent's attorney.

12. RULE MAKING PROPOSAL □ STANDARD FOR STEWARDS □ DISQUALIFICATION OF HORSE CROSSING ANOTHER

The Board approved the proposal of an amendment to thoroughbred Rule 9 E NYCRR 4035.2(b). This subdivision governs the disqualification of a horse that has crossed another so as to impede the other horse.

Basically, the proposal would provide clear authority for the exercise of discretion by the stewards when determining whether to disqualify. The stewards would examine whether or not the horse that crossed another's path actually impeded, interfered with or intimidated the crossed horse and whether any mitigating factors are involved.

This proposal will be submitted to the Governor's Office of Regulatory Reform with Notice of Intent to Propose and other required submissions.

13. WESTERN OTB/BATAVIA DOWNS REQUEST TO WITHDRAW FROM CIF - \$416,105.67

The Board approved the request by Batavia Downs, dated November 21, 2002, to withdraw \$416,105.67 from its Capital Improvement Fund for capital improvement expenditures.

Backstretch & Barns (100%)

½ of cost of Horseman's Office Trailer \$ 6,690.00

Civil & Architectural Repairs of Paddock

& Barns 409,415.67

Total Approved \$416,105.67

14. BUFFALO RACEWAY REQUEST TO WITHDRAW FROM CIF - \$73,931.64

The Board approved the request by Buffalo Raceway to withdraw \$73,931.64 from its Capital Improvement Fund.

<u>Backstretch (100%)</u>	
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Paving Work □ South entrance from McKinley Parkway, through Gate, and along North side between Horse Barns and Track	\$ 30,199.00
Paving Materials	39,482.64
Survey track for resurfacing	1,750.00
Sand and Salt Spreader	<u>2,500.00</u>
Total Backstretch	<u>\$ 73,931.64</u>
Total Approved	<u>\$ 73,931.64</u>

15. FINGER LAKES TRACK LICENSE APPLICATION FOR 2003

The Board deferred the Finger Lakes year 2003 track and simulcast license applications pending receipt of a signed and fully executed contract with the Finger Lakes Horsemen's Benevolent and Protective Association covering the remainder of the 2003 racing season.

These licenses will be considered again at the February Board Meeting.

16. FINGER LAKES SIMULCAST LICENSE APPLICATION FOR 2003

See Board item number 15 above.

17. MONTICELLO RACEWAY REQUEST TO WITHDRAW FROM CIF - \$135,251.85

The Board approved the request by Monticello Raceway, dated December 13, 2002, to withdraw \$122,813.90 from its Capital Improvement Fund for capital improvement expenditures.

In addition, the Board denied, without prejudice, \$12,000.00 for a Ford Pick-Up truck/plow and \$427.95 for a Husqvarna grass cutter. Monticello had not yet registered or received the certificate of title for the pick-up truck and the serial number on the grass cutter, in the physical inspection, did not match the serial number on the invoice.

Backstretch & Barns (35%)

2 hot water heaters barns F & N 418.54

Lumber for manure pits and barns 2,444.85

Backstretch Paving 33,160.00

Roof repairs to Barn B 110.25

Harrow Frame, with rails, etc. 6,086.00

Hot water heater Barn X 209.27

\$42,428.91

Other (65%)

Gas powered Leaf Blower 524.24

TV for judges-backstretch 139.06

Pressure Washer 959.89

TV for security office 213.85

New Roof Grandstand \$ 69,900.00

New monitor for General Manager 581.96

3 TV's for money room, Paddock, and
judges office 577.35

Camera control unit 3,000.00

2 calculators for pari-mutuels 182.88

4 poly carts for cleaning 3,569.52

TV for photo finish 136.24

Purchase and installation of Dish and

Receivers 600.00

80,384.99

Total Approved \$122,813.90

18. NYRA REQUEST FOR APPROVAL OF RACING OFFICIALS

The Board approved the request by NYRA for all officials and employees listed as belonging in Categories I, II or II to perform duties at the New York Racing Association's tracks during the year 2003 racing season.

This approval is in compliance with Board Rule 4005.1

19. NYRA REQUEST FOR APPROVAL OF AUDITOR FOR 2002

The Board approved the request by NYRA to appoint Deloitte & Touche, L.L.P. as its auditor for the year 2002, pursuant to Section 231-a of the Racing, Pari-Mutuel Wagering and Breeding Law.

20. NYRA SIMULCAST LICENSE APPLICATION FOR 2003

The Board approved the year 2003 simulcast licenses for Saratoga Race Course and Aqueduct.

The Board deferred the simulcast license for Belmont Park until the April Board Meeting pending receipt of a valid fire inspection by authorities within the locality in which Belmont Park is located.

21. SARATOGA HARNESS TRACK LICENSE APPLICATION FOR 2003

The Board approved the Saratoga Harness Racing, Inc. year 2003 track and simulcast license applications.

The licenses are issued contingent upon compliance with the following conditions:

- Conditioning the continued use of Hitachi□s, bet mates or other similar devices by providing that no cancellations are allowed to be placed on them.
- Limiting the issuance/use of Hitachi□s, bet mates or other similar devices to one per person/betting interest.
- Eliminating any cancellation delay □ no cancellations after the start of the race.
- The name, address, social security number and date of birth must be obtained from each individual who opens a day account (temporary wagering account) and the account number they have been assigned. Information is to

be maintained for three years and made available to Board staff upon request.

22. SARATOGA HARNESS SIMULCAST LICENSE APPLICATION FOR 2003

See Board item number 21 above.

23. SYRACUSE MILE TRACK LICENSE APPLICATION FOR 2003

The Board deferred the Syracuse Mile year 2003 track license application until May 2003 pending receipt of further information concerning operation of the meet.

24. TIOGA PARK TRACK LICENSE APPLICATION FOR 2003

The Board deferred the Tioga Park year 2003 track and simulcast license applications indefinitely pending receipt of further information and staff review.

25. TIOGA PARK SIMULCAST LICENSE APPLICATION FOR 2003

See Board item number 24 above.

26. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION - MASSENA

The Board approved the request by Capital District Regional OTB, dated October 9, 2002, to conduct wagering and display simulcasts at the Amigos Tex-Mex Bar & Grill in Massena (St. Lawrence County), which is located within the St. Lawrence Mall. At this new E-Z Bet location, all wagering is self-service and initiated using a winning ticket or voucher only. The amount limit in the issuance of any voucher to a customer at any one time will be five hundred dollars (\$500).

In addition, it is expected that Capital OTB, using its own North Country security and audit employees, will inspect the Amigos Tex-Mex Bar & Grill E-Z Bet facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed. A copy of the results of all Capital security checks involving E-Z Bet locations must be filed with the Board in a timely manner.

Additionally, the Secretary to the Board must be immediately notified in writing should a change in any operating procedure become effective at this approved E-Z Bet facility.

27. CATSKILL OTB REQUEST TO APPOINT NEW BOARD OF DIRECTORS - DARDEN

The Board approved the appointment of Mr. George O. Darden to the Catskill Regional Off-Track Betting Corporation's Board of Directors.

Mr. Darden will be representing the County of Rockland on the Catskill OTB Board.

28. NASSAU OTB REQUEST TO APPOINT NEW BOARD OF DIRECTOR - WASSERMAN

The Board approved the appointment of Ms. Joanne Wasserman to the Board of Directors of the Nassau County Regional Off-Track Betting Corporation.

29. WESTERN OTB SIMULCAST LICENSE APPLICATION FOR 2003

The Board deferred the Western Regional Off-Track Betting Corporation year 2003 simulcast license application pending receipt of delinquent monthly and daily financial reports due to the Racing and Wagering Board.

These licenses will be considered again at the February Board Meeting.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE BINGO REGISTRATION NUMBERS DECEMBER/JANUARY 01/03-17-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between December 14, 2002 January 10, 2003.

2. GAMES OF CHANCE BELL JAR TICKETS DECEMBER/JANUARY - 01/03-18-E

List of bell jar tickets authorized/denied by the Charitable Gaming Unit between December 14, 2002 □ January 10, 2003.

3. INDIAN GAMING LICENSING STATISTICS □ DECEMBER 2002 - 01/03-19-E

Licensing statistics for the month of December 2002. Also included are the certifications for Turning Stone, Akwesasne and Seneca Niagara.

4. LICENSING □ CURRENT LICENSING COUNT AS OF 12/31/02 - 01/03-20-E

The current licensing count as of December 31, 2002 are as follows: total receipts 13,962 and total licenses 13,064.

5. NOTICE OF PROPOSALS □ GAMES OF CHANCE & BINGO FORMS -

01/03-21-E

In September 2002 the Board approved consensus rule making proposals concerning games of chance and bingo forms. The proposed changes amend the relevant rules in order to facilitate changes in forms.

Separate Notices of Proposed Rule Making by consensus were published in the *State Register* on December 11, 2002. Copies of the published notices are attached. The comment period expires on Saturday, January 25, 2003. Accordingly, comments will be accepted through January 27, 2003.

The meeting was adjourned at 2:17 p.m.